UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

CHELDAN HOMES, LP,	§	
Plaintiff,	§	
	§	C.A. NO. _____
VS.	§	
	§	JURY DEMAND
NATIONAL BUILDERS INSURANCE	§	
COMPANY,	§	
Defendant.	§	

COMPLAINT

COMES NOW CHELDAN HOMES, LP ("Cheldan") and files this Complaint and Request

for Declaratory Judgment

PARTIES

1.   Cheldan Homes is a Texas limited Liability Partnership based in Fort Worth, Texas.

The limited partners of Cheldan Homes, LP are OMS Management, LLC and Goss Family

Partnership and its members are Allen R. Goss and Kayemille Goss. Plaintiff Cheldan Homes and

all limited partners are all residents of the State of Texas.

2.   National Builders Insurance Company ("BIC") is a Texas licensed insurance

company incorporated in the State of Georgia. The place of business is located at 2410 Paces

Ferry Road, Suite 300, Atlanta, Georgia 30339. Service is not needed at this time as Defendant has

been served.

VENUE

3.   Venue is proper in this Court under 28 U.S.C. § 1391 in that … (b) the Eastern

District of Texas is where a substantial part of the events giving rise to the claim occurred, and

(c) the Defendants are subject to personal jurisdiction in the Eastern District of Texas at the time

this action is commenced. Specifically, the insurance policy made the subject of this litigation was issued in Denton County, Texas by the agent for Plaintiff].

FACTUAL BACKGROUND

4.   BIC issued Policy number PKG 0070676 (the "Policy") to Plaintiff for the period of September 1, 2018 to September 1, 2019. Through the Policy, BIC agreed, subject to the limitations, terms and conditions thereof, to pay all sums (up to the applicable limits less any applicable self-insured retention) which the individuals and entities insured thereunder became obligated to pay by reason of liability imposed by law for damages resulting from, among other things, bodily injury or property damage caused by an occurrence covered by the Policy.

5.   Cheldan was sued in a lawsuit styled *Gantley Wilson and Becky Wilson v. Cheldan Homes, L.P. et al*; Case No. 348-309663-19, filed in the 348th Judicial District Court of Tarrant County, Texas ("Wilson lawsuit"). After receiving service of the lawsuit, Cheldan tendered the lawsuit to BIC for defense and indemnity coverage. Despite being covered by the applicable policy of insurance, BIC refused to defend and refused to indemnify Cheldan for the Wilson Lawsuit.

CAUSES OF ACTION

BREACH OF CONTRACT

6.   Cheldan and BIC entered into a valid and enforceable insurance policy.

7.   Cheldan performed all conditions precedent under that policy.

8.   Despite providing coverage for the Wilson Lawsuit, BIC breached its insurance contract with Cheldan by not defending nor indemnifying Cheldan for the Wilson Lawsuit.

DECLARATORY JUDGMENT

9.   Cheldan would show that the applicable insurance policy provides both defense and indemnity coverage for the damages alleged by Plaintiff(s) in the underlying lawsuit.

10.   Cheldan seeks a declaration from this Court that the Wilson Lawsuit is covered by the applicable insurance issued by Defendant.

11.   Further, Cheldan seeks a declaration that Defendant is liable to Cheldan for defense and indemnity damages as well as attorney's fees and costs related to the prosecution of this litigation.

CONCLUSION

WHEREFORE, Plaintiff requests judgment as follows:

a)   That the Court determine and declare that the Defendant is liable to pay and indemnify Plaintiff for all damages, costs and payments incurred by Plaintiff with respect to any and all claims related to the Wilson Lawsuit;

b)   Grant to Plaintiff its costs and attorney's fees incurred herein; and,

c)   Grant such other and further relief as may be just and proper.

Respectfully submitted,

By: */s/T. Micah Dortch*
        T. MICAH DORTCH
        State Bar No. 24044981
        mdortch@potts-law.com
MARYSSA J. SIMPSON
Texas Bar No. 24088414
msimpson@potts-law.com
POTTS LAW FIRM, LLP
2911 Turtle Creek Blvd, Suite 1000
Dallas, Texas 75219
Tel: (214) 396-9427
Fax: (469) 217-8296

ATTORNEYS FOR PLAINTIFF